

2/3-for-taxes rule ruled unconstitutional in state Senate

By Jordan Schrader
The Olympian
March 2, 2015



Washington state Lt. Gov. Brad Owen opens the Senate's 2015 legislative session in Olympia Monday Jan. 12.

STEVE BLOOM — Staff photographer

The state Senate's presiding officer said Monday he won't enforce a Senate rule making it harder to raise taxes.

The rule violates the state constitution, Lt. Gov. Brad Owen ruled.

With the ruling by Owen, a Democrat, the votes of 25 of 49 senators are required to move a tax through the Senate, the same 50-percent-plus-one majority as required in the House.

The rule required a two-thirds supermajority to bring a bill to a final vote if the bill created new taxes. In invalidating it, Owen relied on a 2013 state Supreme Court ruling striking down voter-passed requirements for two-thirds supermajorities for taxes.

The Senate could vote to overturn Owen's ruling. Majority Republicans, who pushed through passage of the rule at the beginning of the 105-day legislative session in January, didn't tip their hand about whether they would challenge it.

Republicans largely oppose a tax on capital gains and a charge on carbon emissions, proposals by Democratic Gov. Jay Inslee that now need only simple majority votes to pass.

By contrast, the Senate GOP mostly supports an 11.7-cent-a-gallon gas tax increase to pay for highway projects, and had written the rule to target "new" taxes in part to avoid affecting a gas tax increase.

But last week Democrats questioned whether the two-thirds requirement would apply to a bill that included a gas tax increase. Owen ruled Monday that it would apply. Democrats then challenged the constitutionality of the requirement itself, and Owen struck it down.

That cleared the way for the tax bill to pass the Senate on a 27-22 vote.

Tim Eyman, the initiative promoter behind the voter-passed two-thirds mandates, now will try to bypass the court and Senate decisions by changing the state constitution.

But that would require lawmakers to send voters a constitutional amendment. Eyman is pursuing a two-step strategy, collecting signatures on a ballot measure asking voters to lower the sales tax unless the Legislature refers an amendment requiring two-thirds votes for tax increases to voters.

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